

Sheldon Eisenberger (SE-2021)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FIDELITY BROKERAGE SERVICES LLC,

Plaintiff,

-against-

MARSHALL CARO, WALTER RAQUET,
INDII.COM USE, LLC and BILL ROTHFARB,

Defendants.

Case No. 10-CV-5893 (BSJ)

**DECLARATION OF SHELDON
EISENBERGER IN SUPPORT OF
MOTION TO DISMISS THE
INTERPLEADER COMPLAINT**

Sheldon Eisenberger solemnly declares under penalty of perjury as follows:

1. I am a member of the bar of this Court and of the firm The Law Office of Sheldon Eisenberger counsel for defendants Marshall Caro (“Caro”) and Indii.com USE, LLC (“Indii”) (collectively, the “Moving Defendants”) in this matter. I submit this declaration in further support of the Caro Defendants’ motion to dismiss the complaint in this matter pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted, and in further opposition to plaintiff’s motion for interpleader and related injunctive relief. I have personal knowledge of the facts set forth below.

2. Annexed hereto as Exhibit 1 is a copy of the transmittal email from the ECF system indicating that defendant Bill Rothfarb filed his opposition to the Moving Defendants’ motion to dismiss the complaint on November 9, 2010.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of November, 2010, in New York, New York.

/s/ Sheldon Eisenberger

Sheldon Eisenberger